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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
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11 RUTHERFORD DAWSON, )  
12 ) Case No: CV13-07100-JAK(MANx)  
13 Plaintiff, )  
14 v. ) **PROTECTIVE ORDER ENTERED**  
15 ) **PURSUANT TO THE PARTIES**  
16 EQUIFAX INC.; EQUIFAX ) **STIPULATION**  
17 INFORMATION SERVICES LLC; A )  
18 FOREING LIMITED LIABILITY )  
19 COMPANY; AND VERIZON )  
20 CALIFORNIA, )  
21 Defendants. )  
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21 Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure and based on  
22 the parties' Stipulation for Protective Order ("Stipulation") filed on May 2, 2014,  
23 the terms of the protective order to which the parties have agreed are adopted as a  
24 protective order of this Court (which generally shall govern the pretrial phase of  
25 this action) except to the extent, as set forth below, that those terms have been  
26 substantively modified by the Court's amendment of paragraphs I. 1 and 2, and III,  
27 of the Stipulation.  
28

1 The parties are expressly cautioned that the designation of any information,  
2 document, or thing as Confidential, Confidential — Attorneys' Eyes Only, or other  
3 designation(s) used by the parties, does not, in and of itself, create any entitlement  
4 to file such information, document, or thing, in whole or in part, under seal.  
5 Accordingly, reference to this Protective Order or to the parties' designation of any  
6 information, document, or thing as Confidential, Confidential — Attorneys' Eyes  
7 Only, or other designation(s) used by the parties, is wholly insufficient to warrant a  
8 filing under seal.

9 There is a strong presumption that the public has a right of access to judicial  
10 proceedings and records in civil cases. In connection with non-dispositive motions,  
11 good cause must be shown to support a filing under seal. The parties' mere  
12 designation of any information, document, or thing as Confidential, Confidential --  
13 Attorneys' Eyes Only, or other designation(s) used by parties, does not -- **without**  
14 **the submission of competent evidence, in the form of a declaration or**  
15 **declarations, establishing that the material sought to be filed under seal**  
16 **qualifies as confidential, privileged, or otherwise protectable** - constitute good  
17 cause.  
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19 Further, if sealing is requested in connection with a dispositive motion or  
20 trial, then compelling reasons, as opposed to good cause, for the sealing must be  
21 shown, and the relief sought shall be narrowly tailored to serve the specific interest  
22 to be protected. *See Pintos v. Pacific Creditors Ass'n*, 605 F.3d 665, 677-79 (9th  
23 Cir. 2010). For each item or type of information, document, or thing sought to be  
24 filed or introduced under seal in connection with a dispositive motion or trial, the  
25 party seeking protection must articulate compelling reasons, supported by specific  
26 facts and legal justification, for the requested sealing order. **Again, competent**  
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1 **evidence supporting the application to file documents under seal must be**  
2 **provided by declaration.**

3 Any document that is not confidential, privileged, or otherwise protectable in  
4 its entirety will not be filed under seal if the confidential portions can be redacted.  
5 If documents can be redacted, then a redacted version for public viewing, omitting  
6 only the confidential, privileged, or otherwise protectable portions of the document,  
7 shall be filed. Any application that seeks to file documents under seal in their  
8 entirety should include an explanation of why redaction is not feasible.

9 Notwithstanding any other provision of this Protective Order, in the event  
10 that this case proceeds to trial, all information, documents, and things discussed or  
11 introduced into evidence at trial will become public and available to all members of  
12 the public, including the press, unless sufficient cause is shown in advance of trial  
13 to proceed otherwise.

14 **THE PARTIES ARE DIRECTED TO REVIEW CAREFULLY AND**  
15 **ACT IN COMPLIANCE WITH ALL ORDERS ISSUED BY THE**  
16 **HONORABLE JOHN A. KRONSTADT, UNITED STATES DISTRICT**  
17 **JUDGE, INCLUDING THOSE APPLICABLE TO FILINGS UNDER SEAL.**

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20 **AGREED TERMS OF PROTECTIVE ORDER AS ADOPTED AND**  
21 **MODIFIED BY THE COURT**<sup>1</sup>

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23 **I. DESIGNATING PROTECTED MATERIAL**

24 Any Party or Third-Party may determine in good faith whether any Material  
25 should be designated as “CONFIDENTIAL” (“Designating Party”). However,  
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27 <sup>1</sup> The Court’s substantive modifications of agreed terms of the Protective  
28 Order are generally indicated in bold typeface.

1 such good faith belief must be based on the fact that such information has not been  
2 made public and the Designating Party must have a good faith belief that if such  
3 information is disclosed it will have the effect of causing harm to a Party's  
4 competitive position or otherwise impinge upon a Party's right to privacy.

5 Parties and Third-Parties shall also have the right to designate as  
6 "CONFIDENTIAL" material produced, served, or provided by other Parties or  
7 Third-Parties, in which case the Designating Party shall notify the other Parties  
8 and/or Third-Parties of the Material that should be treated as "CONFIDENTIAL,"  
9 pursuant to this Protective Order. Any Material, or any part thereof, designated as  
10 "CONFIDENTIAL" shall be used only for the preparation and trial of this action,  
11 including discovery, pre-trial proceedings, trial, appellate proceedings and petitions  
12 for reconsideration and/or review, and shall not be used for any business,  
13 commercial, or other purpose. Except as otherwise provided in this Protective  
14 Order, or as otherwise stipulated or ordered, any Material that a Party or Third-  
15 Party deems "CONFIDENTIAL" must be clearly so designated. Designation in  
16 conformity with this Protective Order requires the following:  
17

18 1. For Material in documentary form (apart from transcripts of  
19 depositions), the Designating Party producing the documents shall affix the legend  
20 "CONFIDENTIAL" at the top or bottom or by watermarking of each page of a  
21 document that contains Confidential Information. The Designating Party that makes  
22 original documents available for inspection need not designate them for protection  
23 under this Protective Order until after the inspecting Party has indicated which  
24 documents it would like copied and produced. During the inspection and before the  
25 designation, all documents made available for inspection shall be deemed  
26 "CONFIDENTIAL-ATTORNEYS' EYES ONLY." After the inspecting Party has  
27 identified the documents it wants copied and produced, the Designating Party must  
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1 determine which documents qualify for protection under this Protective Order;  
2 then, before producing the specified documents, the producing Party must affix the  
3 legend "CONFIDENTIAL" to each page of the documents that contain  
4 Confidential Information. If, after production, a Party or Third-Party designates as  
5 "CONFIDENTIAL" documents not previously designated, then any Party in  
6 possession of such documents shall designate the documents as such in accordance  
7 with this Protective Order.

8         2. For testimony given in deposition, the Designating Party shall identify  
9 either: (a) on the record before the close of the deposition; or (b) within 20 days  
10 after receiving the transcript of such deposition, all portions of the testimony that it  
11 wants to designate as "CONFIDENTIAL." Only those portions of the testimony  
12 that are designated for protection during the deposition, or within the 20 days after  
13 receipt of the transcript of such testimony, shall be covered by the provisions of this  
14 Protective Order. The court reporter shall affix to the top or bottom of each page of  
15 a **deposition** transcript containing Confidential Information the legend  
16 "CONFIDENTIAL" as instructed by a Designating Party's instructions. For  
17 testimony given in pretrial, trial proceedings, or any such court proceedings, the  
18 Parties will address any Confidential Information with the judicial officer  
19 conducting the proceeding at **or before, if practicable**, the time of any such  
20 proceeding.  
21

22         3. For any Material produced in other than documentary form and for  
23 any other tangible items, the Designating Party producing such Material or tangible  
24 item shall affix in a prominent place on the exterior of the container or containers in  
25 which the material or item is stored the legend "CONFIDENTIAL." If only  
26 portions of the information or item warrant protection, the Designating Party, to the  
27 extent practicable, shall identify the protected portions. If, after production, a Party  
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1 or Third-Party designates as “CONFIDENTIAL” any non-documentary Material or  
 2 tangible item not previously designated, then any Party in possession of such  
 3 Material or tangible item shall designate it as such in accordance with this  
 4 Protective Order.

## 5 **II. ACCESS TO AND USE OF CONFIDENTIAL INFORMATION**

6 1. Subject to paragraph 3 below, all Material designated as  
 7 “CONFIDENTIAL” may be disclosed only to:

8 a. Outside counsel for a Party and in-house counsel for Defendants  
 9 responsible for overseeing this action, as well as their employees and other persons  
 10 or entities retained by such counsel to provide litigation-related services;

11 b. Experts, consultants, and other independent contractors retained or  
 12 employed to consult with, advise, or assist counsel for a Party in the preparation or  
 13 trial of this case, as well as their employees;

14 c. The Parties to this action and their current directors, officers, and  
 15 employees;

16 d. Witnesses who are being prepared by counsel to give testimony at a  
 17 deposition or at trial, or who are being examined by counsel at a deposition or at  
 18 trial; and

19 e. Personnel employed by the United States District Court for the Central  
 20 District of California or any appellate court, including the Ninth Circuit Court of  
 21 Appeals, judges, court reporters, clerks, and administrative support personnel.

22 2. A Designating Party may designate as “CONFIDENTIAL-  
 23 ATTORNEYS EYES ONLY” any Material that contains private, confidential,  
 24 proprietary, and/or trade secret information that is so sensitive that such Material  
 25 should not be disclosed to the directors, officers, or non-attorney employees of  
 26 other Parties. Material designated as “CONFIDENTIAL-ATTORNEYS’ EYES  
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1 ONLY” may be disclosed only to those persons and entities identified in paragraph  
2 II(1) (a), (b) and (e) above.

3 3. Parties shall take appropriate measures to ensure that all persons  
4 permitted access to Material designated as “CONFIDENTIAL” or  
5 “CONFIDENTIAL-ATTORNEYS’ EYES ONLY” under paragraph II(1) (b), (c) or  
6 (d) of this Protective Order have agreed, prior to reviewing any such Confidential  
7 Information, to be bound by the terms and conditions hereof with respect to the  
8 restricted disclosure and use of such Confidential Information. Prior to receiving  
9 any Confidential Information, those persons shall sign a copy of the statement  
10 attached hereto as Exhibit A, agreeing to be bound by the terms of this Protective  
11 Order and submitting to the jurisdiction of the United States District Court for the  
12 Central District of California to enforce this Protective Order. The Party who  
13 obtains any such signed statements shall retain possession of the statements and  
14 shall provide a copy of the statements at the written request of another Party.  
15 However, under no circumstances shall any Party be required to disclose the  
16 identity or existence of any expert, consultant, or witness until otherwise required  
17 to do so by law or order of the United State District Court for the Central District of  
18 California or other court of competent jurisdiction.  
19

### 20 **III. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

21 If, at any time during the pendency of this action, counsel for any Party  
22 wishes to challenge a Designating Party’s designation of Material as containing  
23 Confidential Information, and to exclude such Material from the provisions of this  
24 Protective Order, the Party shall follow the procedures for seeking judicial  
25 intervention for discovery disputes, as set forth in Local Rule 37.1. The Parties  
26 shall also first meet and confer in a good faith effort to resolve informally any  
27 disputes concerning this Protective Order before seeking judicial intervention. **The**  
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1 **Designating Party shall bear the burden of establishing the propriety of the**  
 2 **challenged designation.**

3 **IV. INADVERTENT OR UNAUTHORIZED DISCLOSURE OF**  
 4 **CONFIDENTIAL INFORMATION**

5 Inadvertent production without prior designation of any Confidential or  
 6 privileged Information shall be without prejudice to a Designating Party's right to  
 7 later file a petition seeking to have the Confidential or privileged Information  
 8 designated as "CONFIDENTIAL" or "CONFIDENTIAL-ATTORNEYS' EYES  
 9 ONLY," or to any other Party's right to argue that production of such Confidential  
 10 Information constitutes a waiver under applicable law of the right to designate any  
 11 Confidential Information as "CONFIDENTIAL" or "CONFIDENTIAL-  
 12 ATTORNEYS' EYES ONLY," or that such material must be returned as  
 13 privileged.

14 **V. MAINTENANCE AND FILING OF CONFIDENTIAL**  
 15 **INFORMATION**

16 1. All Material designated as "CONFIDENTIAL" or "CONFIDENTIAL-  
 17 ATTORNEYS' EYES ONLY" shall be kept in secure facilities. A "secure facility"  
 18 is a place where access is restricted to only those designated persons set forth in  
 19 paragraphs 11(1)(a) and (b) of this Protective Order. Such requirement is not  
 20 applicable to the Court and/or those designated persons set forth in paragraph  
 21 II(1)(e).  
 22

23 2. Any information, including, but not limited to, documents,  
 24 interrogatory responses, and depositions designated as containing Confidential  
 25 Information -- when submitted to the Court as part of, or with a, pleading or as  
 26 evidence -- shall be submitted to the Court with an application to file such materials  
 27 under seal, which shall comply with the requirements of Local Rule 79.5-1 et seq.  
 28



1 and this Protective Order. Pending a judicial ruling on the application, the  
 2 Confidential Information subject to the sealing application shall be lodged under  
 3 seal.

4 3. Documents or other information designated as containing Confidential  
 5 Information pursuant to this Protective Order shall become public absent a separate  
 6 Court order upon written motion and sufficient cause shown.

7 4. Nothing in this Protective Order requires the Court to automatically  
 8 grant a request to file documents labeled “CONFIDENTIAL” or  
 9 “CONFIDENTIAL ATTORNEYS’ EYES ONLY” under seal.

10 **VI. CONFIDENTIAL INFORMATION SUBPOENAED OR**  
 11 **ORDERED PRODUCED IN OTHER LITIGATION**

12 1. The terms of this Protective Order shall apply to all manner and means  
 13 of discovery, including subpoenas duces tecum.

14 2. In the event that a Party is served with a subpoena that seeks to compel  
 15 the production of Material designated as “CONFIDENTIAL” or  
 16 “CONFIDENTIAL-ATTORNEYS’ EYES ONLY,” the Party upon whom the  
 17 subpoena is served shall give written notice of the subpoena to the Designating  
 18 Party at least seven (7) calendar days before the production date (or, if the subpoena  
 19 provides less than seven (7) days notice, within one (1) business day after service of  
 20 the subpoena). The Designating Party may then file a petition or motion to quash  
 21 the subpoena and/or obtain such other relief as will protect the confidential nature  
 22 of the documents. If the Designating Party files such a petition before the  
 23 production date specified in the subpoena, the Party upon whom the subpoena is  
 24 served shall not produce the requested documents until after the United States  
 25 District Court for the Central District of California or other appropriate court has  
 26 ruled on the petition or motion. Nothing in this Protective Order should be  
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1 construed as authorizing a Party in this action to disobey a lawful directive from  
2 another court.

### 3 **VII. FINAL DISPOSITION**

4 Within 30 days after the final termination of this action, counsel for each  
5 Party shall destroy any and all Material designated as “CONFIDENTIAL” or  
6 “CONFIDENTIAL-ATTORNEYS’ EYES ONLY” and shall destroy all copies,  
7 digests or summaries which have been made of, or prepared from, such  
8 Confidential Information, and shall provide counsel for the Party or Third-Party  
9 who produced such Material (upon request) with a declaration under penalty of  
10 perjury attesting to such return and/or destruction. For purposes of this Protective  
11 Order, the term “final termination” shall refer to the time after any final order or  
12 award is entered in this action, with no timely petition for reconsideration or  
13 petition for review having been filed, or, if any such petition is filed, after a final  
14 decision is rendered by the United States District Court or any appellate court with  
15 no further petition or appeal pending or possible.

### 16 **VIII. MISCELLANEOUS**

17  
18 1. Subject to the Provision of Paragraph VI(2), above, nothing in this  
19 Protective Order shall be construed to relieve any Party from the obligation to  
20 timely respond to a discovery request, nor shall this Protective Order be construed  
21 as a waiver of the right to assert any objection to a discovery request.

22 2. This Protective Order is intended to regulate the production and  
23 dissemination of Confidential Information during the entirety of this action, and  
24 thereafter shall remain in full force and effect, unless and until modified,  
25 superseded, or terminated by written agreement of all Parties or by order of the  
26 United States District Court. The United States District Court for the Central  
27 District of California shall retain jurisdiction to enforce the provisions of this  
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1 Protective Order and to enter amendments, modifications, and additions to this  
2 Protective Order as the United States District Court for the Central District of  
3 California may from time to time deem appropriate upon noticed motion of a Party  
4 or upon the United States District Court for the Central District of California's own  
5 motion.

6 3. Counsel for both parties shall present to the district court, at the  
7 earliest possible time prior to trial, any application or motion deemed appropriate  
8 and necessary for the proper handling of "CONFIDENTIAL" exhibits/information  
9 at trial.

10 4. Nothing in this Protective Order shall be construed as improperly  
11 limiting the rights of third parties involved in other actions to conduct discovery or  
12 to limit the subpoena power of another court unless a Court in such other  
13 proceedings grants a properly noticed motion for protective order.

14 IT IS SO ORDERED.  
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16  
17 Dated: June 12, 2014

*Margaret A. Nagle*

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20 MARGARET A. NAGLE  
21 UNITED STATES MAGISTRATE JUDGE  
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